

Counsel listed on next page



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DAVID HALTERMAN,

Plaintiff,

v.

LEGATO SOFTWARE, a Division of EMC  
Corporation; EMC CORPORATION, dba  
EMC PERIPHERALS, INC., and DOES 1-X,

Defendants.

Case No. C04-2660 JW PT

**STIPULATION AND ~~[PROPOSED]~~  
ORDER REGARDING EXPERT  
WITNESSES PURSUANT TO  
CIV. L.R. 6-2(a)**

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1 PURSUANT TO LOCAL RULE 6-2(a), Plaintiff David Halterman and Defendant  
2 EMC Corporation (collectively, "the parties") stipulate as follows:

3 WHEREAS, the parties timely disclosed experts and exchanged reports on July 29,  
4 2005 pursuant to the Court's July 8, 2005 order (except for mental health experts and reports,  
5 which are covered by the Court's June 9, 2005 order);

6 WHEREAS, the parties timely disclosed mental health expert reports on  
7 September 16, 2005, pursuant to the Court's June 9, 2005 order and the parties' informal  
8 agreement to postpone the exchange of mental health expert reports until September 16, 2005;

9 WHEREAS, pursuant to stipulation, on August 15, 2005, the Court continued the  
10 last day for a hearing on either party's motion to exclude expert testimony from August 29, 2005  
11 until November 14, 2005 (making the last day to file a motion to exclude October 10, 2005);

12 WHEREAS, EMC took the depositions of plaintiff's damages and accounting  
13 experts on September 13 and 14, 2005;

14 WHEREAS, the parties are cooperating in scheduling the depositions for four  
15 additional experts;

16 WHEREAS, plaintiff's counsel Kathryn Dickson and defendant's counsel Lynne  
17 Hermle are both preparing for the same (but unrelated) trial in the Superior Court for the County  
18 of San Mateo in *Zheng v. Siebel Systems, Inc.*, Case No. 435601, before Judge Marie S. Weiner;

19 WHEREAS, the *Zheng* trial is scheduled to commence on September 27, 2005 and  
20 continue through October 14, 2005;

21 WHEREAS, plaintiff's counsel David Angle is getting married in early October  
22 2005 and will be out of his office on vacation for his wedding and honeymoon from October 5,  
23 2005 through October 16, 2005;

24 WHEREAS, the parties have scheduled a private mediation on October 14, 2005;

25 WHEREAS, given vacation schedules of experts and attorneys and trial calendars  
26 of both parties' attorneys, (a) there is insufficient time between the date for disclosure of expert  
27 reports and rebuttal reports and the last day for a hearing on a motion to exclude expert testimony,  
28 and (b) there is insufficient time for the parties to complete expert discovery before the expert

1 discovery cutoff;

2 WHEREAS, the parties have sought three prior modifications to the schedule for  
3 the case, which were approved by the Court on June 9, 2005, July 8, 2005 and August 15, 2005,  
4 respectively;

5 WHEREAS, plaintiff sought a modification of the schedule to continue the hearing  
6 date for EMC's motion for summary judgment until December 5, 2005, which was approved by  
7 the Court on September 1, 2005;

8 IT IS HEREBY STIPULATED,

9 (a) the last day for hearing on a motion to exclude an expert witness  
10 shall be continued from November 4, 2005 to December 19, 2005; and

11 (b) the close of discovery of expert witnesses only, both non-mental  
12 health and mental health and experts, shall be continued from October 28, 2005 until November  
13 11, 2005.

14 Dated: September 20, 2005

Respectfully submitted,

15 KATHRYN BURKETT DICKSON  
16 DICKSON – ROSS LLP

17 DAVID ANGLE  
18 ANGLE & ANGLE LLC

19 By: \_\_\_\_\_/s/  
20 Kathryn Burkett Dickson  
Attorneys for Plaintiff David Halterman

21 Dated: September 20, 2005

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23 LYNNE C. HERMLE  
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25 ORRICK, HERRINGTON & SUTCLIFFE LLP

26 LEANNE FITZGERALD  
27 EMC CORPORATION

28 By: \_\_\_\_\_/s/  
Michael D. Weil  
Attorneys for Defendant EMC Corporation

1 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
2 “conformed” signature (/s/) within this efiled document.

3  
4 By: /s/  
Michael D. Weil  
5 Attorneys for Defendant EMC Corporation.

6 PURSUANT TO STIPULATION, IT IS SO ORDERED:

7 Dated: 9/21/05

8 /s/ James Ware  
The Honorable James Ware  
9 United States District Judge